

09:25AM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

PETER GERACE, JR.,

Defendant.

Case No. 1:19-cr-227
1:23-cr-37
(LJV)

November 20, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF ANTHONY CASULLO
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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PRESENT:

KAREN A. CHAMPOUX, USA PARALEGAL

BRIAN A. BURNS, FBI SPECIAL AGENT

MARILYN K. HALLIDAY, HSI SPECIAL AGENT

LAW CLERK:

REBECCA FABIAN IZZO, ESQ.

COURT CLERK:

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Robert H. Jackson Courthouse
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1 (Excerpt commenced at 4:07 p.m.)

2 (Jury is present.)

3 **THE COURT:** The government can call its next witness.

4 **MR. COOPER:** I just spilled my water, sorry.

5 The government calls Tony Casullo, Judge.

6

7 **A N T H O N Y C A S U L L O**, having been duly called and
8 sworn, testified as follows:

9 **MR. COOPER:** May I inquire, Judge?

10 **THE COURT:** Yes.

11

12 **DIRECT EXAMINATION BY MR. COOPER:**

13 Q. Good afternoon, sir.

14 A. Good afternoon.

15 Q. Can you introduce yourself to the jury?

16 A. Yes, hi, my name is Anthony Casullo, I was a special
17 agent with the DEA for about 23 years.

18 Q. And where do you live currently?

19 A. I currently live in Clarence, New York.

20 Q. How long have you lived in that Clarence, New York area?

21 A. I purchased the house in about 2012. And then I worked
22 in New York City and went back and forth for about two years.
23 So, since 2015.

24 Q. Okay. Is this Western New York area the area where you
25 grew up?

04:09PM

1 A. Yes.

04:09PM

2 Q. Where'd you go to high school at?

04:09PM

3 A. I went to Saint Joe's Collegiate Institute.

04:09PM

4 Q. You mentioned in the introduction part that you had a

04:09PM

5 career working at the DEA for about 25 years. We're gonna

04:09PM

6 cover that in a second. But currently, are you working?

04:09PM

7 A. Yeah, I do, I am currently working.

04:09PM

8 Q. What kind of work do you do currently?

04:09PM

9 A. I work as a subject matter expert, an advisor for a U.S.

04:09PM

10 technology company. It's a company that's under contract

04:09PM

11 with the U.S. Department of State to provide foreign

04:09PM

12 assistance to foreign governments on law enforcement systems,

04:09PM

13 like case management systems, intelligence systems.

04:09PM

14 Q. How long have you worked at that job for?

04:09PM

15 A. Oh, I think about a year and -- about a year and four

04:09PM

16 months, three months.

04:09PM

17 Q. Okay. I want to talk with you now about your career in

04:09PM

18 law enforcement. How did your career in law enforcement

04:10PM

19 start?

04:10PM

20 A. It started when I graduated from Canisius College, there

04:10PM

21 were some recruiters at my college, one of them being the

04:10PM

22 Immigration Service at the time, which is now Customs and

04:10PM

23 Border Protection. Excuse me. And I spoke with one of the

04:10PM

24 individuals there that was at our college, and ultimately

04:10PM

25 about a year later started working as an immigration

04:10PM 1 inspector in Toronto, Canada, doing preflight inspections,
04:10PM 2 what you see at the border, but we worked in Canada clearing
04:10PM 3 flights before they came to the U.S.

04:10PM 4 Q. What year was that that you started doing that work?

04:10PM 5 A. That was December of 1990.

04:10PM 6 Q. Did you eventually end up working at the DEA?

04:10PM 7 A. I did.

04:10PM 8 Q. Okay. When did you start working at the DEA?

04:10PM 9 A. I was hired by the DEA in July of 1999.

04:10PM 10 Q. Okay. And when did you ultimately retire at the DEA?

04:10PM 11 A. I retired from DEA in March of 2022.

04:10PM 12 Q. After you -- well, let's, I guess, start here.

04:11PM 13 When you switched over to the DEA, did you go through a
04:11PM 14 training academy?

04:11PM 15 A. Yes, I did.

04:11PM 16 Q. About how long did that last?

04:11PM 17 A. I believe it was, like, 20 weeks.

04:11PM 18 Q. What office did you start out in after that training
04:11PM 19 academy?

04:11PM 20 A. So I was hired out of the Buffalo office. Graduated from
04:11PM 21 the academy, came back to Buffalo for a month, but my
04:11PM 22 assignment that I received when I was at the academy was
04:11PM 23 Las Vegas, Nevada.

04:11PM 24 Q. So did your work bring you out to Las Vegas?

04:11PM 25 A. Pardon?

04:11PM 1 Q. Did your work bring you out to Las Vegas?

04:11PM 2 A. Yes. We moved out to Las Vegas in December of 1999.

04:11PM 3 Q. Can you just describe for the jury, generally, what kind
04:11PM 4 of work you did at the DEA in Las Vegas?

04:11PM 5 A. Sure. Generally, there were several different groups, my
04:11PM 6 first assignment was in a gang task force. So I worked
04:11PM 7 narcotics investigations in a task force with Las Vegas metro
04:12PM 8 police officers, I believe there were three DEA agents and
04:12PM 9 eight Las Vegas metro gang detectives, and we worked
04:12PM 10 narcotics investigations primarily on gang members and gang
04:12PM 11 organizations in the Clark County, Las Vegas area.

04:12PM 12 Q. After a period of time working as a DEA special agent in
04:12PM 13 the Las Vegas office, did there come a time when you decided
04:12PM 14 to leave the DEA and go to a different federal agency?

04:12PM 15 A. Yes.

04:12PM 16 Q. Can you describe that for the jury, please?

04:12PM 17 A. Sure. So I was working for the DEA when 9/11 happened.
04:12PM 18 And I applied for DEA and FBI both about the same time.

04:12PM 19 After 9/11, I wanted to work terrorism investigations, I
04:12PM 20 had an interest in doing that because of what happened. And
04:12PM 21 I ended up calling up the FBI recruiter, reactivated my
04:12PM 22 application, and was hired by the FBI about nine months after
04:12PM 23 9/11.

04:12PM 24 Q. Okay. So at that point, had you been working for the DEA
04:13PM 25 for about two, two years or so?

04:13PM 1 A. Correct.

04:13PM 2 Q. And maybe two-and-a-half years?

04:13PM 3 A. Um-hum. It was about two years, yeah.

04:13PM 4 Q. Okay. After that, when you contacted this FBI recruiter,
04:13PM 5 did you leave Las Vegas and go somewhere else?

04:13PM 6 A. I did.

04:13PM 7 Q. Where'd you go?

04:13PM 8 A. So I went to the FBI Academy. Similar to the DEA
04:13PM 9 Academy, it was 20 -- about 20 weeks in Quantico. And then I
04:13PM 10 received my assignment when I was in Quantico for
04:13PM 11 Fayetteville, North Carolina. It was a small resident office
04:13PM 12 of about three -- three or four agents in Fayetteville
04:13PM 13 outside Fort Bragg.

04:13PM 14 Q. Not trying to be cheeky here, but was Fayetteville, North
04:13PM 15 Carolina your first choice?

04:13PM 16 A. No. The division was higher up on my list, which was the
04:13PM 17 Charlotte Division, but Fayetteville, which fell underneath
04:13PM 18 it, wasn't.

04:13PM 19 Q. Okay. And just -- just to explain real quick,
04:13PM 20 "division," you say, is that a larger geographical area?

04:13PM 21 A. Right. The division is the main office, and then within
04:13PM 22 a division there will be smaller offices. And Fayetteville
04:14PM 23 is one of the smaller offices of the Charlotte Division for
04:14PM 24 the FBI.

04:14PM 25 Q. Okay. And I don't want to spend much time on this, but

04:14PM 1 when you were at the Fayetteville office with the FBI, were
04:14PM 2 you able to do the work that you had hoped to do when you
04:14PM 3 switched over to the FBI?

04:14PM 4 A. No, I barely worked terrorism investigations. It was
04:14PM 5 just a smaller office. We worked mostly violent crime and
04:14PM 6 bank robberies.

04:14PM 7 Q. Were you happy with the area generally where you were
04:14PM 8 living?

04:14PM 9 A. No. We -- I did a house-hunting trip, and wasn't really
04:14PM 10 pleased with the area. I'd have to commute further away from
04:14PM 11 where I wanted to live, possibly up in Raleigh, it was over
04:14PM 12 an hour. Long story short, I told my wife to hold off on
04:14PM 13 selling the house, it wasn't somewhere that I wanted to send
04:14PM 14 my kids to school in that area, and we ultimately chose --
04:14PM 15 well, I don't want to get too far ahead of you.

04:14PM 16 Q. No, that's -- you're doing fine, sir.

04:14PM 17 A. I ended up staying with the FBI for about a year and a
04:14PM 18 half. I had two years to go back to DEA. If I waited longer
04:14PM 19 than two years, I'd have to restart the process again, go to
04:15PM 20 the academy again, and I ended up going back to DEA in
04:15PM 21 Las Vegas after about a year and a half with the FBI.

04:15PM 22 Q. So after that short stint with the FBI, do you take --
04:15PM 23 you decide to move back to DEA about a year and a half a
04:15PM 24 later?

04:15PM 25 A. It was about a year and a half.

04:15PM 1 Q. Okay. Did you end up going back to the Las Vegas office?

04:15PM 2 A. Yes.

04:15PM 3 Q. Now, were you hoping to come back home at some point in

04:15PM 4 your career to work in Western New York?

04:15PM 5 A. That was our plan initially, to come back at some point.

04:15PM 6 Q. Okay. Did you have a wife and kids?

04:15PM 7 A. I do. I have a wife and four children.

04:15PM 8 Q. Okay. And so, was your goal to kind of get back around

04:15PM 9 near family?

04:15PM 10 A. It was a goal to come back at some point to raise the

04:15PM 11 kids in the Western New York area. My family was from

04:15PM 12 Western New York, and my wife's family -- had family in

04:15PM 13 Western New York.

04:15PM 14 Q. Did that eventually happen, that you were able to switch

04:15PM 15 back to New York?

04:15PM 16 A. Yes.

04:15PM 17 Q. Can you explain to the jury how that worked out?

04:15PM 18 A. Sure. We finally decided to make the move back. It was

04:15PM 19 around 2012. So we stayed out there for a while in

04:16PM 20 Las Vegas, we chose to stay until our kids got to high

04:16PM 21 school. Then we had wanted to come back and have them do

04:16PM 22 high school in Western New York, we thought the schools are

04:16PM 23 better. So, at the time I wanted to come back, there were no

04:16PM 24 vacancies in the Buffalo office, which falls under the

04:16PM 25 New York office. The New York office is a division.

04:16PM 1 So, I was told if I went to New York City for two years
04:16PM 2 and work there, as soon as someone retired in Buffalo or left
04:16PM 3 for another assignment, that I could fill that slot. And
04:16PM 4 that's what I did.

04:16PM 5 Q. During the two-year period that you worked in the
04:16PM 6 New York City office, did your family live here in Buffalo?

04:16PM 7 A. They did. I had a house here, and I had a small
04:16PM 8 apartment in New Jersey, and kind of went back and forth for
04:16PM 9 a couple years.

04:16PM 10 Q. What year did you eventually get assigned to the DEA
04:16PM 11 Buffalo resident office?

04:16PM 12 A. I was assigned to Buffalo, it was September of 2015.

04:16PM 13 Q. Are there different groups at the DEA Buffalo resident
04:17PM 14 office?

04:17PM 15 A. Yes.

04:17PM 16 Q. What are they?

04:17PM 17 A. They're by number. There was one group that's D-57, it's
04:17PM 18 called a general enforcement group, meaning that it's mostly
04:17PM 19 agents, DEA agents. And then there were a few local
04:17PM 20 officers, detectives assigned to that group.

04:17PM 21 And then there's another group called D-58, which is
04:17PM 22 called a task force group, which is kind of like the
04:17PM 23 opposite. It's primarily detectives and task force officers,
04:17PM 24 local and state officers, and maybe two or three agents in
04:17PM 25 the group.

1 And then the third group is called a tactical diversion
2 squad, which is DEA agents and detectives kind of half and
3 half that work mostly, like, pharmaceutical-type cases,
4 diversion of controlled substances -- controlled substances
5 that are being used illicitly.

6 Q. Okay. So does the third group, diversion, does that
7 focus on, like, pharmacies and doctors offices?

8 A. Yeah. Mostly.

9 Q. Okay. The other groups, D-57 and D-58, I want to focus
10 on that for just a second.

11 You talked about special agents. Is that the title that
12 you had after going through the DEA Academy?

13 A. Correct.

14 Q. Did the DEA also permit members of local law enforcement,
15 just as an example, let's say the Erie County Sheriff's
16 Office, to become task force officers that worked at the DEA
17 building with DEA agents?

18 A. Yes. And that was my experience.

19 Q. Okay. And so when we -- when we use the phrase "task
20 force officer," is that someone who's primarily employed by a
21 local or state law enforcement agency?

22 A. Yes.

23 Q. Can it sometimes even be someone from a different federal
24 agency?

25 A. Yeah. They're called task force agents, but it's

1 essentially the same thing.

2 We have both state and locals at DEA that will work in
3 groups with agents. And we also have other federal officers
4 from different agencies, whether it's the Customs and Border
5 Protection, ATF, I've worked with FBI, agents from all
6 different agencies.

7 Q. Okay. While you were -- strike that. Let me move ahead
8 here.

9 While you were at the DEA in Las Vegas, did you work with
10 a boss who had some experience working on organized crime
11 cases?

12 A. I did.

13 Q. Okay. And so back when you're in Las Vegas working with
14 that boss, does the opportunity present itself for you to
15 work on organized crime cases?

16 A. Yes.

17 Q. Were you interested in that?

18 A. Yes.

19 Q. We're gonna pause there for a second and move to a new
20 topic.

21 When you became a special agent the DEA, did you take an
22 oath?

23 A. Yes, I did.

24 Q. Generally, what was the promise that you made when you
25 took that oath?

04:19PM 1 A. To enforce the U.S. drug laws, excuse me, and to protect
04:19PM 2 the U.S. Constitution from all enemies, both foreign and
04:20PM 3 domestic, essentially.

04:20PM 4 Q. As a DEA special agent when you went through training,
04:20PM 5 were you given trainings on ethics?

04:20PM 6 A. Yes.

04:20PM 7 Q. As a DEA special agent, based on your 20-plus years
04:20PM 8 experience, were you supposed to choose who you investigated
04:20PM 9 based on that person's race or ethnicity?

04:20PM 10 A. No.

04:20PM 11 Q. Was that prohibited by DEA policy?

04:20PM 12 A. Yes.

04:20PM 13 Q. Mr. Casullo, do you know a person by the name of Joseph
04:20PM 14 Bongiovanni?

04:20PM 15 A. Yes.

04:20PM 16 Q. How do you know that person?

04:20PM 17 A. He was a DEA agent that worked in the Buffalo office
04:20PM 18 while I was in the Buffalo office.

04:20PM 19 Q. Okay. How long did you work with Joseph Bongiovanni at
04:20PM 20 the Buffalo resident office?

04:20PM 21 A. When I first went to Buffalo, we were in the both -- we
04:21PM 22 were both in the same group together. And I was in that
04:21PM 23 group for maybe I don't know, two, two-and-a-half years.

04:21PM 24 And then I went to the task force group that I explained,
04:21PM 25 the D-58 group, I went to that group after group D-57, and

04:21PM 1 then we were in different groups up until I retired.

04:21PM 2 Q. Okay. And so would it be -- well, let me start this way.

04:21PM 3 When you arrived at the DEA Buffalo resident office, was
04:21PM 4 Bongiovanni already working there?

04:21PM 5 A. Yes.

04:21PM 6 Q. Was it your understanding that he had been working there
04:21PM 7 for quite some time?

04:21PM 8 A. Yes.

04:21PM 9 Q. Did there come a time in or around 2019 when he retired
04:21PM 10 from the DEA?

04:21PM 11 A. Yes.

04:21PM 12 Q. Okay. Were you still working there at that time?

04:21PM 13 A. Yes.

04:21PM 14 Q. So, would it be fair to say from about 20 -- is it 2015
04:21PM 15 when you started in Buffalo?

04:21PM 16 A. September of 2015.

04:21PM 17 Q. So from about September of 2015 until sometime in early
04:21PM 18 2019, did you work together with Joseph Bongiovanni?

04:21PM 19 A. Yes.

04:21PM 20 Q. For a portion of that time, were you in the same group?

04:22PM 21 A. Yes.

04:22PM 22 Q. Which group was that?

04:22PM 23 A. D-57.

04:22PM 24 Q. When you first arrived to the Buffalo office in or around
04:22PM 25 September of 2015, can you describe for this jury, what was

04:22PM 1 your relationship like with Bongiovanni?

04:22PM 2 A. I knew of Joe. I had met him before. I had come back
04:22PM 3 when I worked in Las Vegas to Buffalo to visit family, and
04:22PM 4 sometimes I'd meet some of the Buffalo agents out.

04:22PM 5 One agent in particular, we both went to the academy
04:22PM 6 together, and he moved back to Buffalo before I did. So I
04:22PM 7 met him maybe once or twice over the summer, so I knew who he
04:22PM 8 was.

04:22PM 9 Q. Did you guys have problems at that time?

04:22PM 10 A. No.

04:22PM 11 Q. Did you like him, generally?

04:22PM 12 A. Yeah, he was generally a fine person.

04:22PM 13 Q. Okay. During the time that you worked at the DEA Buffalo
04:22PM 14 resident office, did you ever work on investigations with the
04:22PM 15 defendant, or with Joseph Bongiovanni? I'm sorry.

04:22PM 16 A. Yes, we worked as partners on a couple different
04:23PM 17 investigations.

04:23PM 18 Q. I'm going to ask a general question first, and then we
04:23PM 19 can get into some more specifics.

04:23PM 20 Between 2015 when you started and 2019 when Bongiovanni
04:23PM 21 retired, did your relationship with him change?

04:23PM 22 A. Yes.

04:23PM 23 Q. Did it change because of things that he said to you?

04:23PM 24 A. Yes.

04:23PM 25 Q. As you sit here today, can you describe for the jury how

04:23PM 1 you feel about Bongiovanni?

04:23PM 2 A. I went through different feelings over the time that I
04:23PM 3 knew him, starting with getting along, working cases. And
04:23PM 4 then things changed where -- to the point now I have no
04:23PM 5 feelings about him.

04:23PM 6 I went through a hard time of someone that I trusted to
04:23PM 7 someone that I didn't trust, and was hurt by it, was angry,
04:23PM 8 was sad, was confused.

04:24PM 9 But at this point in my life, I have no feelings
04:24PM 10 whatsoever for him.

04:24PM 11 Q. Do you know a person by the name of Peter Gerace?

04:24PM 12 A. Yes.

04:24PM 13 Q. How do you know that person?

04:24PM 14 A. I went to high school with Peter Gerace at Saint Joe's,
04:24PM 15 we were both in the same graduating class.

04:24PM 16 Q. Were you friends with him in high school?

04:24PM 17 A. We knew each other. It was a small school. But we
04:24PM 18 never -- we never hung out.

04:24PM 19 Q. Have you ever at any point in your life been friends with
04:24PM 20 Peter Gerace?

04:24PM 21 A. No.

04:24PM 22 Q. Did you ever go to dinner with him?

04:24PM 23 A. No.

04:24PM 24 Q. Did you ever go on double dates together?

04:24PM 25 A. No.

04:24PM 1 Q. Did you ever go on vacation together?

04:24PM 2 A. No.

04:24PM 3 Q. Do you have a relation or a family member who you know or

04:24PM 4 you believe to be friends with Mr. Gerace?

04:24PM 5 A. Yes.

04:24PM 6 Q. Who's that person?

04:25PM 7 A. My wife's brother is friends with Peter Gerace.

04:25PM 8 Q. What's that person's name, your wife's brother?

04:25PM 9 A. Phil Domiano.

04:25PM 10 Q. Can you describe for the jury, do you have a relationship

04:25PM 11 with Phil Domiano?

04:25PM 12 A. No. I did when I dated my wife and we got married. But

04:25PM 13 things changed after I moved out to Las Vegas with DEA, and

04:25PM 14 to the point that he's not even allowed at my house.

04:25PM 15 Q. You said when you were dating your wife. What year? I'm

04:25PM 16 not trying to make fun, what year was that, though?

04:25PM 17 A. Oh, well, I was in college. So, 1987.

04:25PM 18 Q. Okay. A long time ago, is that fair to say?

04:25PM 19 A. A long time ago, yeah.

04:25PM 20 Q. In 20 -- in 2015 when you moved back to Buffalo, did you

04:25PM 21 have a relationship with Phil Domiano?

04:25PM 22 A. No. He lived in Las Vegas, we lived in Buffalo. And

04:25PM 23 it -- when I first came back, he still visited a few times.

04:25PM 24 And then things changed to the point that he wasn't allowed

04:26PM 25 at our house at all.

04:26PM 1 Q. Does Mr. Domiano associate with people, and are those
04:26PM 2 associations that you didn't approve of?

04:26PM 3 A. Yes.

04:26PM 4 Q. Did Mr. Domiano's relationship with, you know, family
04:26PM 5 relation to your wife, influence your work at the DEA at all?

04:26PM 6 A. No.

04:26PM 7 Q. Does his relationship or your belief that he has a
04:26PM 8 relationship with Peter Gerace, did that influence your work
04:26PM 9 at the DEA at all?

04:26PM 10 A. No.

04:26PM 11 **MR. COOPER:** I don't think this is in yet, so for the
04:26PM 12 witness only, can we show Government's Exhibit 99?

04:26PM 13 **BY MR. COOPER:**

04:27PM 14 Q. I want you to take a moment, sir, and look at that, and
04:27PM 15 then when you're finished with the first page, you tell me,
04:27PM 16 and I'll have Ms. Champoux move to the next page.

04:28PM 17 **MR. COOPER:** Ms. Champoux, can you go to the next
04:28PM 18 page, please? And the next page. And the next page. And the
04:28PM 19 next page. And the next page. And the next page. And the
04:28PM 20 next page. And the next page. And the next page. And the
04:29PM 21 next page. And the next page. And the next page. And the
04:29PM 22 next page. And I think one more time, the next page.

04:29PM 23 Is that it, Ms. Champoux? Or is there more?

04:29PM 24 Oh, there you go. That's the last page. Thank you.

25

04:29PM

1

BY MR. COOPER:

04:29PM

2

Q. All right. So, sir, you just looked at the 17 different

04:29PM

3

pages of Government Exhibit 99, do you recognize that?

04:29PM

4

A. Just a couple paragraphs in the very first page, I -- not

04:29PM

5

the rest of it.

04:29PM

6

Q. Got it. So have you seen that first page, have you seen

04:29PM

7

that before today?

04:29PM

8

A. Part of it, not all of it.

04:29PM

9

Q. Got it.

04:29PM

10

MR. COOPER: Can you go back to the first page,

04:29PM

11

Ms. Champoux?

04:29PM

12

BY MR. COOPER:

04:29PM

13

Q. Do you recognize what this is?

04:29PM

14

A. Yes.

04:29PM

15

Q. Is it a memorandum, a DEA memorandum?

04:29PM

16

A. Yes.

04:29PM

17

Q. Does it have the DEA seal on it?

04:30PM

18

A. Yes.

04:30PM

19

Q. Do you recognize the names of the people that are written

04:30PM

20

on it?

04:30PM

21

A. Yes.

04:30PM

22

Q. Is there a signature on it?

04:30PM

23

A. Yes.

04:30PM

24

Q. Do you recognize that?

04:30PM

25

A. Yes.

04:30PM 1 Q. Who signed it?

04:30PM 2 A. Joseph Bongiovanni.

04:30PM 3 Q. Okay. And what's the date on it?

04:30PM 4 A. January 28th, 2019.

04:30PM 5 Q. And what's the subject of the memo?

04:30PM 6 A. Communication with Peter Gerace by Special Agent Anthony

04:30PM 7 Casullo and Phil Domiano.

04:30PM 8 Q. Who's the memorandum addressed to?

04:30PM 9 A. To Edward A. Orgon, Jr.

04:30PM 10 Q. Okay. And did you know that person?

04:30PM 11 A. Yes.

04:30PM 12 Q. Who was that person?

04:30PM 13 A. That's the resident agent in charge, like, the head of

04:30PM 14 the Buffalo DEA office.

04:30PM 15 Q. And who's the memo from?

04:30PM 16 A. It's from Joseph Bongiovanni.

04:30PM 17 Q. Okay.

04:30PM 18 **MR. COOPER:** Judge, I'd ask if we can come up just

04:30PM 19 briefly on a conversation.

04:30PM 20 **THE COURT:** Yeah, come on up.

04:30PM 21 **MR. COOPER:** Thanks.

04:30PM 22 (Sidebar discussion held on the record.)

04:31PM 23 **MR. COOPER:** I appreciate it.

04:31PM 24 So, Judge --

04:31PM 25 **THE COURT:** This is it's gonna come in eventually,

04:31PM 1 right?

04:31PM 2 **MR. FOTI:** I think the government will probably say
04:31PM 3 that they expect to lay a foundation and that it eventually
04:31PM 4 will. I -- that may be the case, but at this point, I don't
04:31PM 5 think the foundation is there, but -- so I will object at this
04:31PM 6 point, but I understand if it's allowed in subject to
04:31PM 7 connection.

04:31PM 8 **MR. COOPER:** That's what I asked Mark when I walked
04:31PM 9 over, was I anticipated the objection, I'm going to ask the
04:31PM 10 Court to allow it in subject to connection given that we're
04:31PM 11 going to call a witness who can authenticate it.

04:31PM 12 **THE COURT:** And you don't object to that? Because it
04:31PM 13 is -- it's hearsay now, and there's no hearsay within hearsay
04:31PM 14 in it because it's --

04:31PM 15 **MR. COOPER:** I'll end up recalling -- with the
04:31PM 16 Court's permission, what I'll end up doing is recalling Tony
04:31PM 17 after this next witness -- or, that witness ultimately
04:32PM 18 testifies, so I'm trying to avoid that.

04:32PM 19 **THE COURT:** So tell me about what you want.

04:32PM 20 **MR. FOTI:** I'm fine letting it in subject to
04:32PM 21 connection, but if it's not laid, we'll move to strike it.

04:32PM 22 **THE COURT:** Absolutely.

04:32PM 23 (End of sidebar discussion.)

04:32PM 24 **MR. COOPER:** Judge, with that limited foundation, and
04:32PM 25 based on our conference at the bench, I'm going to ask to move

1 this Government Exhibit 99 in subject to connection.

2 **THE COURT:** Mr. Foti?

3 **MR. FOTI:** No objection under those -- with that
4 understanding.

5 **THE COURT:** Right. So, so it's moved into evidence
6 subject to connection.

7 What that means, it's kind of provisionally in
8 evidence now. Mr. Cooper and the government are going to call
9 a witness later on to authenticate this. It's not been
10 authenticated yet.

11 But based on the representation of the government
12 that they have a witness who's going to authenticate it, we're
13 going to let it in now so as not to waste time.

14 Go ahead. So it's admitted subject to connection.

15 **(GOV Exhibit 99 was received in evidence.)**

16 **MR. COOPER:** Before we publish that, Ms. Champoux,
17 can you zoom in on this portion that I'm highlighting here?

18 All the way across. Yeah, there you go.

19 Nope, just up to where I highlighted. Thank you.

20 I'd ask that this be published to the jury.

21 **THE CLERK:** Go ahead.

22 **MR. COOPER:** Thank you, ma'am.

23 **BY MR. COOPER:**

24 Q. Mr. Casullo, can you see this on the screen in front of
25 you?

04:33PM

1 A. Yes.

04:33PM

2 Q. Is this a portion of that memo that we talked about?

04:33PM

3 A. Yes.

04:33PM

4 Q. Is it your understanding that Joseph Bongiovanni wrote

04:33PM

5 this memo?

04:33PM

6 A. Yes.

04:33PM

7 Q. Is it about you?

04:33PM

8 A. Yes.

04:33PM

9 Q. Let's go through it.

04:33PM

10 This first sentence here, can you read that out loud to

04:33PM

11 the jury?

04:33PM

12 A. S.A. Joseph Bongiovanni is writing to inform you of

04:33PM

13 information that he has acquired regarding the social

04:34PM

14 affiliation and recent communications with Peter Gerace by

04:34PM

15 Anthony Casullo and S.A. Casullo's brother-in-law, Phil

04:34PM

16 Domiano.

04:34PM

17 Q. Do you have a social affiliation with Peter Gerace?

04:34PM

18 A. No.

04:34PM

19 Q. Is that sentence true?

04:34PM

20 A. No.

04:34PM

21 Q. Can you read the next sentence?

04:34PM

22 A. In that past, S.A. Bongiovanni has verbally informed you,

04:34PM

23 my group supervisor, Greg Yensan, and our ASAC, David T. Zon,

04:34PM

24 of information confirming the friendship of Domiano, Casullo,

04:34PM

25 and Gerace.

04:34PM 1 Q. Is that sentence true?

04:34PM 2 A. No.

04:34PM 3 Q. Were you friends with Phil Domiano?

04:34PM 4 A. No.

04:34PM 5 Q. Were you friends with Peter Gerace?

04:34PM 6 A. No.

04:34PM 7 Q. Can you read the next sentence?

04:34PM 8 A. Furthermore, S.A. Bongiovanni has attached information

04:34PM 9 confirming that Domiano was a former manager of Pharaoh's

04:34PM 10 Gentlemen's Club in Cheektowaga, New York on behalf of

04:34PM 11 Gerace.

04:34PM 12 Q. Do you know whether that sentence is true or not?

04:35PM 13 A. Well, I do now.

04:35PM 14 Q. Okay. How about that bottom portion there, can you read

04:35PM 15 that for the jury?

04:35PM 16 A. S.A. Bongiovanni has personally witnessed S.A. Casullo

04:35PM 17 meeting and drinking socially with Peter Gerace alone at the

04:35PM 18 Big Ditch Brewery and later at Tappo Italian Restaurant in

04:35PM 19 Buffalo, New York at approximately at 9:45 p.m. on the

04:35PM 20 evening of June 13th, 2015.

04:35PM 21 Q. Is this a memo -- is it your understanding this is a memo

04:35PM 22 that Bongiovanni sent to his boss at the DEA?

04:35PM 23 A. Yes.

04:35PM 24 Q. That portion at the bottom there, about drinking socially

04:35PM 25 with Peter Gerace alone at the Big Ditch Brewery, is that

04:35PM

1 true?

04:35PM

2 A. No.

04:35PM

3 Q. Did you drink alone with him at the Tappo Italian

04:35PM

4 Restaurant in Buffalo?

04:35PM

5 A. No.

04:36PM

6 **MR. COOPER:** You can take that down, Ms. Champoux.

04:36PM

7 **BY MR. COOPER:**

04:36PM

8 Q. In June of 2015, did you attend a high school reunion at

04:36PM

9 the Big Ditch Brewery?

04:36PM

10 A. Yes.

04:36PM

11 Q. Were you and Peter Gerace the only people at the high

04:36PM

12 school reunion?

04:36PM

13 A. No.

04:36PM

14 Q. Was he your friend when you were at the high school

04:36PM

15 reunion?

04:36PM

16 A. No.

04:36PM

17 Q. Was Peter Gerace there?

04:36PM

18 A. Yes.

04:36PM

19 Q. Can you describe for the jury what happened at that high

04:36PM

20 school reunion with respect to you and Peter Gerace and

04:36PM

21 Joe -- was Joe Bongiovanni there at the high school reunion?

04:36PM

22 A. No.

04:36PM

23 Q. Did you see him that night?

04:36PM

24 A. I did.

04:36PM

25 Q. Describe for the jury how that night played out.

04:36PM 1 A. So, through the night, Gerace mentioned to me that

04:36PM 2 Bongiovanni was across the street at Tappo Restaurant with

04:36PM 3 his brother, Anthony.

04:36PM 4 Q. Now, at that time, this is June of 2015, is this a few

04:36PM 5 months before you actually come back to Buffalo to start

04:37PM 6 working there?

04:37PM 7 A. Yes.

04:37PM 8 Q. And by that time, in June of 2015, did you know

04:37PM 9 Bongiovanni to be a special agent with the DEA?

04:37PM 10 A. Yes.

04:37PM 11 Q. When Peter Gerace approached you and told you that

04:37PM 12 Bongiovanni was across the street with his brother, did you

04:37PM 13 have an interest, generally, in going to see Bongiovanni?

04:37PM 14 A. Initially, I told him no, I didn't want to go over.

04:37PM 15 Q. What happened then?

04:37PM 16 A. He said he's just across the street, it's like literally

04:37PM 17 right there. He asked me two or three times, and I agreed by

04:37PM 18 the third time.

04:37PM 19 Q. Did you go across the street?

04:37PM 20 A. Yes.

04:37PM 21 Q. What did you see when you went there?

04:37PM 22 A. So when I walked in, off to the right I saw Bongiovanni

04:37PM 23 sitting at the bar with -- I believe it was, like, three --

04:37PM 24 three or four other individuals.

04:37PM 25 Q. Did you recognize any of them?

1 A. I recognized Bongiovanni, not the other three or four.

2 Q. Okay. We've been talking about Peter Gerace. Is he in
3 the courtroom today?

4 A. Yes.

5 Q. Can you point him out and identify an article of his
6 clothing for the record?

7 A. Peter Gerace is wearing a blue tie and a gray suit.
8 Going like this, up and down. That's Peter Gerace with
9 glasses.

10 Q. Okay. Which seat is he sitting in?

11 A. Between his two attorneys.

12 **MR. COOPER:** Okay. So the person in the middle,
13 Judge, I'd ask the record to reflect that he's identified the
14 defendant.

15 **THE COURT:** It does.

16 **BY MR. COOPER:**

17 Q. And did you say he was nodding his head while you were
18 looking at him?

19 A. Yes, he was nodding his head up and down.

20 Q. When the defendant asked you to walk across the street to
21 see Bongiovanni, did he tell you who Bongiovanni was with?

22 A. Just his brother.

23 Q. Whose brother?

24 A. Peter's brother, Anthony.

25 Q. What happened when you walked across the street with the

04:38PM 1 defendant to see Bongiovanni?

04:38PM 2 A. When I first walked in, we walked up to them, and Joe
04:39PM 3 turned around and seemed really surprised to see me.

04:39PM 4 He said, what are you doing here? I thought you were in
04:39PM 5 New York.

04:39PM 6 I said, I am still working in New York. I came home for
04:39PM 7 my reunion.

04:39PM 8 He looked pretty uncomfortable, almost like he didn't
04:39PM 9 want to be there. He eventually introduced me to Anthony
04:39PM 10 Gerace, who was sitting next to him. He introduced me to the
04:39PM 11 three other -- or, I believe, there were three other people,
04:39PM 12 I don't remember who they are, but, yeah, he introduced me to
04:39PM 13 Anthony Gerace and to other people.

04:39PM 14 Q. And when you say he looked surprised to see you, you
04:39PM 15 mean, like, happy surprised? Or, like, concerned surprised?

04:39PM 16 A. Like, uncomfortable.

04:39PM 17 Q. During your time at the DEA, did you ever initiate or
04:39PM 18 attempt to investigate this defendant, Peter Gerace?

04:39PM 19 A. Yes.

04:39PM 20 Q. Did that investigation include an investigation of
04:40PM 21 Pharaoh's Gentlemen's Club?

04:40PM 22 A. Yes.

04:40PM 23 Q. Did you get very far in that investigation?

04:40PM 24 A. No.

04:40PM 25 Q. Okay. We're going to cover it in more detail.

04:40PM 1 When you did start looking into this defendant?

04:40PM 2 A. I believe it was summer of 2016.

04:40PM 3 Q. What brought Mr. Gerace to your attention as a target of
04:40PM 4 an investigation?

04:40PM 5 A. There were a few things.

04:40PM 6 It was no secret amongst people that I knew, classmates,
04:40PM 7 that he was a --

04:40PM 8 **MR. FOTI:** Objection, Judge.

04:40PM 9 **MR. COOPER:** Judge, it's the state of mind.

04:40PM 10 **THE COURT:** Hang on. What's the basis of the
04:40PM 11 objection?

04:40PM 12 **MR. FOTI:** Hearsay. It's -- can we approach? Sorry.

04:40PM 13 **THE COURT:** Yeah, come on up.

04:40PM 14 (Sidebar discussion held on the record.)

04:41PM 15 **THE COURT:** The question is why he started
04:41PM 16 investigating Gerace.

04:41PM 17 **MR. FOTI:** Anything about it being no secret among
04:41PM 18 what other people thought or knew, I -- I'm not entirely sure
04:41PM 19 what his answer is gonna be. But I expect that --

04:41PM 20 **MR. COOPER:** It's in the transcript from his prior
04:41PM 21 testimony, and we covered this topic at the most recent
04:41PM 22 Bongiovanni trial. And it's not being offered for the truth
04:41PM 23 of the matter asserted. There's been --

04:41PM 24 **MR. FOTI:** Why he's --

04:41PM 25 **MR. COOPER:** Correct. And there's been repeated

1 cross-examination where the explanation has been, Judge, it
2 goes to the investigation.

3 So I have to be able to explain that he didn't pull
4 it out of his hat, or do it because he didn't like him, that's
5 my job.

6 **THE COURT:** He certainly can testify to why he
7 started investigating him. Why can't he testify to why he
8 started investigating him?

9 **MR. FOTI:** I just -- I have 403 concerns about
10 information that he -- as long as it's -- if -- if there's
11 clarification that --

12 **THE COURT:** Why don't you lead a little bit more.
13 This witness does have a tendency to go on and volunteer
14 stuff.

15 **MR. COOPER:** That's Tom Herbst, Judge.

16 **THE COURT:** Pardon me?

17 (Simultaneous speaking.)

18 **THE COURT:** So why don't you lead a little bit, and
19 try to keep it narrower. Ask -- you can lead using anything
20 that you think is appropriate, lead. But -- but I understand
21 Mr. Foti's concern where he starts with something like there's
22 no secret that. That would concern me, too.

23 **MR. COOPER:** Okay.

24 **THE COURT:** So, so, you can ask questions about why
25 he investigated him, and -- and -- but -- but just try to keep

04:42PM 1 it relatively narrow. I don't think the subject matter is off
04:42PM 2 limits at all, I think it comes in. The way you couch it may
04:42PM 3 be problematic. That's all. Okay?

04:42PM 4 **MR. COOPER:** Yep. Thanks, Judge.

04:43PM 5 (End of sidebar discussion.)

04:43PM 6 **MR. COOPER:** Judge, based on the bench conference,
04:43PM 7 I'm going to ask for a second to find some specific questions
04:43PM 8 to ask.

04:43PM 9 **THE COURT:** Absolutely.

04:43PM 10 **MR. COOPER:** Just bear with me time-wise for a second
04:43PM 11 here.

04:43PM 12 **THE COURT:** And you're withdrawing the last question?

04:43PM 13 **MR. COOPER:** Based on the discussion, I'm going to
04:43PM 14 ask some leading specific questions, but I just need a minute.

04:43PM 15 **THE COURT:** Yep.

04:43PM 16 **MR. COOPER:** Thank you.

04:44PM 17 **BY MR. COOPER:**

04:44PM 18 Q. While you were at that high school re --

04:44PM 19 Just answer specifically what I'm asking you.

04:44PM 20 You understand what we're doing here?

04:44PM 21 A. Yes.

04:44PM 22 Q. Okay. While you were at that high school reunion in
04:44PM 23 about June of 2015, did a classmate of yours who worked in
04:44PM 24 law enforcement make statements to you that caused you to be
04:44PM 25 interested in pursuing an investigation of Peter Gerace and

04:44PM 1 Pharaoh's Gentlemen's Club?

04:44PM 2 A. Yes.

04:44PM 3 Q. Describe for the jury what that person said to you.

04:45PM 4 A. He said that Gerace was videotaping everybody in his

04:45PM 5 club.

04:45PM 6 Q. Did he -- sorry. So I'd like to be a little more

04:45PM 7 specific than that. Did he tell you specifically something

04:45PM 8 along the lines of that Gerace had recordings of people with

04:45PM 9 strippers?

04:45PM 10 A. Something along those lines, yeah.

04:45PM 11 Q. Okay. At that same reunion, did you hear other

04:45PM 12 classmates making comments about going to Pharaoh's

04:45PM 13 Gentlemen's Club to use cocaine?

04:45PM 14 A. Yes.

04:45PM 15 Q. Is that a social activity that you were interested in

04:45PM 16 participating in?

04:45PM 17 A. No.

04:45PM 18 Q. At the time, were you a DEA agent?

04:46PM 19 A. Yes.

04:46PM 20 Q. Did it stick in your mind and later materialize in an

04:46PM 21 interest in investigating Peter Gerace?

04:46PM 22 A. Yes.

04:46PM 23 **MR. COOPER:** Judge, if we can approach just for one

04:46PM 24 more before I ask it?

04:46PM 25 **THE COURT:** Absolutely.

04:46PM 1 **MR. COOPER:** Thank you.

04:46PM 2 (Sidebar discussion on the record.)

04:46PM 3 **THE COURT:** Fine.

04:46PM 4 **MR. COOPER:** Actually, no.

04:46PM 5 **THE COURT:** Oh.

04:46PM 6 **MR. COOPER:** So I want to obviously, I understand
04:46PM 7 that this is Mr. Gerace's trial, and so things that came in in
04:46PM 8 Bongiovanni don't necessarily come in in Gerace. We've been
04:46PM 9 cautious up to this point in the trial of discussing the
04:46PM 10 defendant's status as a federally convicted felon. That's
04:47PM 11 something I expect he'll testify he was aware of and that
04:47PM 12 factored into his decision to pursue an investigation of that
04:47PM 13 person. It's common in law enforcement for that to be
04:47PM 14 something that causes you to look at one target versus
04:47PM 15 another.

04:47PM 16 I don't know, I wanted to come up and discuss it. I
04:47PM 17 think it goes to the same basis. If there's a way for me to
04:47PM 18 soften it, they've already heard from Lepiane that he was on
04:47PM 19 federal probation. I want to front it for you and see where
04:47PM 20 your position is on it.

04:47PM 21 **MR. FOTI:** Judge, I think my problem, I understand
04:47PM 22 there's a reason being provided, and I think the reason it's
04:47PM 23 being provided in good faith for why you want to ask about it.
04:47PM 24 But it's also -- that can be the beginning of the target of
04:47PM 25 any investigation. In any case where somebody has a prior

1 felony, if that factored into the considerations of the
2 investigators, it would become part of the trial. And that's
3 clearly not the case.

4 **THE COURT:** No, but it could add to the equation. It
5 could be -- it could be, you know, an incremental additional
6 reason. Again, so the jury knows that he's on release, they
7 know -- they know that he has a conviction of some sort. Why
8 do you have to give them any more than that?

9 **MR. COOPER:** No, that's fine. I'm just trying to
10 front it because I don't want to have a big blowup.

11 **THE COURT:** I thought the pretrial ruling was they
12 could get into the fact that he has a conviction, but they
13 can't get into the fact that he has a felony, so that's what I
14 understood.

15 **MR. COOPER:** Okay.

16 **THE COURT:** So -- so I don't have a problem with
17 your, again, leading, and using the word "conviction," not
18 using the word "felony."

19 **MR. COOPER:** All right.

20 **THE COURT:** It's a fine line, but I think may be
21 important.

22 **MR. COOPER:** Got it. Okay. That's what I'll do.

23 **MR. FOTI:** Understood.

24 (End of sidebar discussion.)

25 **BY MR. COOPER:**

04:48PM 1 Q. Sir, I'm going to ask you a very specific question, and I
04:48PM 2 want you to give me a yes-or-no answer to this one, okay?

04:48PM 3 A. Okay.

04:48PM 4 Q. At that time, were you aware that this defendant had a
04:49PM 5 prior conviction? Yes or no.

04:49PM 6 A. Yes.

04:49PM 7 Q. Okay. As a law enforcement officer, is that something,
04:49PM 8 generally, that can factor into your analysis of who's a
04:49PM 9 viable target for investigation?

04:49PM 10 A. Being a prior felon?

04:49PM 11 Q. Well, being -- having any prior conviction, is that
04:49PM 12 something that can factor into your analysis?

04:49PM 13 A. Sure.

04:49PM 14 **MR. FOTI:** Judge, can we approach?

04:49PM 15 **THE COURT:** Yeah, come on up.

04:49PM 16 (Sidebar discussion on the record.)

04:49PM 17 **THE COURT:** That wasn't Mr. Cooper's fault.

04:49PM 18 **MR. FOTI:** Well, it was -- it wasn't, except there is
04:49PM 19 witness prep where that type of thing is supposed to be
04:49PM 20 avoided when we make decisions to keep things out.

04:49PM 21 **THE COURT:** So I'm going to instruct the jury to
04:49PM 22 disregard the use of the word "felon," and he's testified that
04:49PM 23 he had a conviction, and that's all we know.

04:49PM 24 **MR. FOTI:** I'd also, I was going to ask for this
04:50PM 25 earlier, if there's going to be a curative instruction, I'd

1 also ask to include a curative instruction letting the jury
2 know that any statements that he testified to from classmates,
3 not being offered for the truth of the matter asserted, that
4 the jury is not to speculate as to anything in regards to
5 whether there's any truthfulness to anything that was said.

6 **THE COURT:** Talking about drug use at Pharaoh's?

7 **MR. FOTI:** The drug -- really, the most prejudicial
8 thing is this idea that he's gonna blackmail people with
9 recordings, that he said classmates were telling him that he
10 has videos of people. I mean --

11 **THE COURT:** That's being offered for --

12 **MR. COOPER:** Just for his state of mind.

13 **THE COURT:** Right.

14 **MR. COOPER:** And that's -- I've tried to couch my
15 questions in that way. And that's what I was trying to --

16 **THE COURT:** Mr. Cooper, I -- I disagree with Mr. Foti
17 that you did anything that at all that caused this. So
18 believe me, you don't have to defend yourself, okay?

19 **MR. COOPER:** Okay.

20 **THE COURT:** So I will give those two curative
21 instructions. Okay?

22 **MR. FOTI:** Yes.

23 (End of sidebar discussion.)

24 **THE COURT:** Okay, folks. So -- so two things that I
25 want to talk to you about.

04:51PM 1 One is that the testimony that this witness gave
04:51PM 2 about things that people said to him at the reunion about
04:51PM 3 Mr. Gerace and Pharaoh's, those are being offered only for the
04:51PM 4 witness's state of mind. Whether those things are true or
04:51PM 5 not, we don't know. Again, this is pure hearsay. But it's
04:51PM 6 not really hearsay because when it's offered for somebody's
04:51PM 7 state of mind, the law says that's not hearsay. Okay?

04:51PM 8 But it's just for his state of mind. We don't know
04:51PM 9 whether those things are true or not, because it's something
04:51PM 10 that somebody else is saying that that person may have heard,
04:51PM 11 or we don't -- we have no idea how that person knew.

04:51PM 12 That person's not going to testify who said it to
04:51PM 13 Mr. Casullo, so we really don't know whether that's true or
04:51PM 14 not. We know that he heard it, and we know that that's one of
04:51PM 15 the things that triggered him to do the investigation. But we
04:51PM 16 don't know whether what he heard is true. Okay?

04:51PM 17 So that's number 1.

04:51PM 18 Number 2, he just used the word "felon." We don't
04:51PM 19 know that either.

04:51PM 20 Mr. Cooper asked whether he was convicted, and we
04:51PM 21 know that he was convicted of something, we don't know what he
04:52PM 22 was convicted of. And again, you're not -- I'm going to
04:52PM 23 strike the testimony about convicted felon, and you're to only
04:52PM 24 understand that Mr. Gerace was convicted of something. Okay?
04:52PM 25 That's all.

25 Q. Okay. Do toll records -- so, hypothetically, let's say

04:53PM 1 John Smith texted you. Would toll records show what John
04:53PM 2 Smith said to you in the text message?

04:53PM 3 A. No. It doesn't show content.

04:53PM 4 Q. Okay. And so, if John Smith called you, would a toll
04:53PM 5 record indicate what John Smith said to you?

04:53PM 6 A. No.

04:53PM 7 Q. Do toll records list out, kind of like, in an Excel
04:53PM 8 spreadsheet form or PDF, do they list out just the existence
04:53PM 9 of incoming and outgoing calls?

04:53PM 10 A. Yes.

04:53PM 11 Q. Okay. Are toll records, subpoenaing them, getting them,
04:53PM 12 reviewing them, is that a big part of what you do at the DEA?

04:53PM 13 A. Sure. It's one of the first steps we take in an
04:54PM 14 investigation.

04:54PM 15 Q. Okay. Is that common for a DEA agent in a drug
04:54PM 16 investigation?

04:54PM 17 A. Very common.

04:54PM 18 Q. Why is it common in a drug investigation to subpoena and
04:54PM 19 acquire toll records of a target?

04:54PM 20 A. Sure. The way you're trained, in most drug
04:54PM 21 investigations, is that there's the possibility that it may
04:54PM 22 be a conspiracy, meaning other people being involved. People
04:54PM 23 that may be suppliers, or couriers, or source of supply that
04:54PM 24 supplies drugs.

04:54PM 25 So you're trying to identify the possibility of a

04:54PM 1 conspiracy, and other individuals that might be involved with
04:54PM 2 that criminal activity.

04:54PM 3 Q. Is it an effective tool in beginning an investigation?

04:54PM 4 A. Yes.

04:54PM 5 Q. Is it -- it's not the only thing you do, right?

04:54PM 6 A. No.

04:54PM 7 Q. Did you make a determination early on in that
04:54PM 8 investigation into Peter Gerace to subpoena and acquire
04:54PM 9 Mr. Gerace's tolls or phone records?

04:55PM 10 A. Yes.

04:55PM 11 Q. Did you discuss that with anybody before you did it?

04:55PM 12 A. Yes.

04:55PM 13 Q. Who did you discuss it with?

04:55PM 14 A. With the group supervisor, Greg Yensan.

04:55PM 15 Q. Why did you discuss that with your group supervisor, Greg
04:55PM 16 Yensan, before you did it?

04:55PM 17 A. First, because for me to get a subpoena approved, it
04:55PM 18 would go through him, so I wanted to make him aware of it.
04:55PM 19 Number 1.

04:55PM 20 And number 2, I was aware that Joseph Bongiovanni, I
04:55PM 21 believed that he was friends with Peter Gerace, so I wanted
04:55PM 22 to give him a heads-up that if I pulled phone records that it
04:55PM 23 was possible that Joseph Bongiovanni's phone number may show
04:55PM 24 up in the phone records.

04:55PM 25 Q. At that time, did you have any problem with Joe

04:55PM 1 Bongiovanni?

04:55PM 2 A. No. No.

04:55PM 3 Q. Earlier you described that when you started working at

04:55PM 4 DEA, the relationship was fine, you worked on cases together.

04:55PM 5 Was that the status at the time in 2016 when you acquired the

04:55PM 6 toll records?

04:55PM 7 A. Yes.

04:55PM 8 Q. Were you trying to get Bongiovanni in trouble?

04:56PM 9 A. No.

04:56PM 10 Q. Did you eventually obtain a subpoena return that gave you

04:56PM 11 Mr. Gerace's phone records?

04:56PM 12 A. Yes.

04:56PM 13 Q. Is that for all time, or for a limited period of time?

04:56PM 14 A. It's -- you can detail the timeframe that you want phone

04:56PM 15 records. And it's typically 30 months is what it typically

04:56PM 16 is. You can change it beyond that, beyond that if you want,

04:56PM 17 but it may take longer for the records to come back. But

04:56PM 18 typically, like, it defaults to 30 days.

04:56PM 19 Q. Okay. So during your answer, you said 30 months and 30

04:56PM 20 days.

04:56PM 21 A. I'm sorry.

04:56PM 22 Q. That's okay.

04:56PM 23 A. Yep.

04:56PM 24 Q. Which one is it?

04:56PM 25 A. It's 30 days, I'm sorry. Not 30 months.

04:56PM 1 Q. Okay. So a month -- 30 months? 30 days, is that the
04:56PM 2 standard length of time that you get back?

04:56PM 3 A. Yes.

04:56PM 4 Q. And you can ask for more or less if you want to?

04:56PM 5 A. Correct.

04:56PM 6 Q. When you got Mr. Gerace's phone records back, did you
04:56PM 7 recognize the phone number of anybody that Gerace had been in
04:56PM 8 contact with?

04:56PM 9 A. Yes.

04:56PM 10 Q. Who?

04:56PM 11 A. Joseph Bongiovanni.

04:57PM 12 Q. When you saw that Bongiovanni had been in contact with
04:57PM 13 Mr. Gerace, and vice versa, what did you do?

04:57PM 14 A. Before when I explained to my supervisor that
04:57PM 15 Bongiovanni's number might be with the phone records, he told
04:57PM 16 me to subpoena the numbers and to see if that number was in
04:57PM 17 the phone records, and if was, to bring him the records.

04:57PM 18 Q. Did you follow that instruction from your boss?

04:57PM 19 A. And that's exactly what I did.

04:57PM 20 Q. Okay.

04:57PM 21 **THE COURT:** Mr. Cooper, is this a good time to --

04:57PM 22 **MR. COOPER:** Yeah, I'm certainly not finishing, so --

04:57PM 23 **THE COURT:** Okay. So, folks, we were going to break
04:57PM 24 for the day. Remember my instructions about not communicating
04:57PM 25 about the case with anyone. Don't use tools --

04:57PM 1 I know you're getting sick of hearing me, but I'm
04:57PM 2 going to do it every day, twice a day, because it's so darn
04:57PM 3 important.

04:57PM 4 So don't use tools of technology to research the case
04:57PM 5 or to communicate about the case with anyone. Don't read or
04:57PM 6 watch or listen to any news coverage of the case, if there is
04:57PM 7 any, while the case is on trial. And don't make up your mind
04:58PM 8 about anything until you start deliberating.

04:58PM 9 See you tomorrow morning at 9:30. Get a good night's
04:58PM 10 sleep. Drive carefully. Thank you very much.

04:58PM 11 (Jury excused at 4:58 p.m.)

04:58PM 12 **THE COURT:** Okay. Mr. Casullo, I think you know
04:58PM 13 you're not to talk to anybody about your testimony between now
04:58PM 14 and tomorrow morning.

04:58PM 15 **THE WITNESS:** Yes, Judge.

04:58PM 16 **THE COURT:** Anything from the defense?

04:58PM 17 **MR. FOTI:** No.

04:58PM 18 **THE COURT:** Anything from the government?

04:58PM 19 **MR. COOPER:** I just have one request, but you can go
04:58PM 20 Tony, if you're good.

04:58PM 21 **THE COURT:** Yes.

04:58PM 22 (Witness excused at 4:58 p.m.)
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